only if it first tested negative for bunted kernels. In addition, any wheat, durum wheat, or triticale grown in those fields could not be used as seed within or outside a regulated area unless it was tested and found free of bunted kernels and spores. Conversely, producers whose fields were regulated became subject to those movement restrictions.

However, the interim rule's impact on individual producers is not likely to be significant, for several reasons. First, the testing of grain for Karnal bunt is performed free of charge for producers in all regulated areas. Producers in the newly regulated areas will not face an additional financial burden because of this requirement. Second, little or no commercial wheat seed is, or is expected to be, grown in the affected fields. Because of that, the elimination or imposition of restrictions on moving seed is expected to have only a minimal impact on producers.

The elimination or imposition of restrictions will increase or restrict marketing opportunities for producers, with impacts on prices received by individual producers. Those producers in California whose fields were deregulated may enjoy increased market opportunities for any wheat they grow in the future (*e.g.,* the availability of export markets) and receive a higher commodity price. Alternatively, those producers in Arizona whose fields were added to the regulated area may see the market for their wheat become more limited and receive a lower price. For producers in their first regulated crop season, any negative price-received effects will be mitigated by compensation for losses. Therefore, the net effect on producer revenues in the newly regulated areas is not expected to be significant. In subsequent regulated crop seasons, producers will incorporate the risk of Karnal bunt infestation into their planting decisions.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 69 FR 245–247 on January 5, 2004.

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 11th day of August 2004.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–18785 Filed 8–16–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02–130–3]

Oriental Fruit Fly; Removal of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Oriental fruit fly regulations by removing portions of Los Angeles and Orange Counties, CA, from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from those areas. The interim rule was necessary to relieve restrictions that were no longer needed to prevent the spread of the Oriental fruit fly into noninfested areas of the United States.

EFFECTIVE DATE: The interim rule became effective on July 15, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne D. Burnett, National Program Manager, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737–1231; (301) 734–6553.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruit, nuts, vegetables, and berries. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks, which can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93–10 (referred to below as the regulations), were established to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. The regulations also designate soil and a large number of fruits, nuts, vegetables, and berries as regulated articles.

In an interim rule effective on July 15, 2003, and published in the **Federal Register** on July 22, 2003 (68 FR 43286–43287, Docket No. 02–130–2), we amended the regulations by removing portions of Los Angeles and Orange Counties, CA from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from those areas. That action was based on our determination that the Oriental fruit fly had been eradicated from those portions of Los Angeles and Orange Counties, CA, and that the quarantine and restrictions were no longer necessary.

Comments on the interim rule were required to be received on or before September 22, 2003. We received one comment by that date. The comment was from a representative of a Hispanic growers advisory committee. The commenter supported the interim rule, but posed two questions.

First, the commenter noted that in the interim rule we stated that the Oriental fruit fly ''has been eradicated'' and ''no longer exists'' in the quarantined areas. The commenter asked if these were two different types of determinations based on different processes, or part of the same process. Our statements that the Oriental fruit fly ''has been eradicated'' and ''no longer exists'' in the quarantined area were simply two ways of referring to the same type of determination based on a single process.

Second, the commenter noted that in the interim rule we stated that our determination that Oriental fruit fly had been eradicated was based on trapping surveys. The commenter asked if trapping surveys were the only method used to determine that the Oriental fruit fly had been eradicated. Trapping surveys conducted by Animal and Plant Health Inspection Service and State inspectors are known to be reliable and effective and, as such, are the only method we employ to determine whether the Oriental fruit fly is present in a particular area.

The commenter also suggested some editorial changes to the text in the interim rule's **SUPPLEMENTARY INFORMATION** section. These suggested changes had no bearing on the basis for or effects of the interim rule, thus there is no need to make any changes to the interim rule in response to the commenter's suggestions.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 68 FR 43286–43287 on July 22, 2003.

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 11th day of August 2004.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–18784 Filed 8–16–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket Number EE–RM–98–440]

RIN 1904–AB46

Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical amendment.

SUMMARY: The Department of Energy (DOE) is revising the Code of Federal Regulations to incorporate certain energy conservation standards that will apply to residential central air conditioners and central air conditioning heat pumps beginning on January 23, 2006. More specifically, this technical amendment replaces standard levels currently in the Code of Federal Regulations, which were established by a final rule published by DOE on May 23, 2002, with standard levels that were set forth in a final rule published by DOE on January 22, 2001. As explained in the Supplementary Information section of this notice, the U.S. Court of Appeals for the Second Circuit has ruled that DOE's withdrawal of the rule published on January 22, 2001, was unlawful, and, therefore, that certain standards promulgated in the May 23, 2002, final rule are invalid. DOE has decided not to seek further review of that ruling. Consequently, DOE is now revising its regulations consistent with the court's ruling.

EFFECTIVE DATE: February 21, 2001.

ADDRESSES: For access to the docket to read background documents or comments received, go to *http://www.eere.energy.gov/buildings/appliance_standards/residential/ac_central.html* and/or visit the U.S. Department of Energy, Forrestal Building, Room 1J–018 (Resource Room of the Building Technologies Program), 1000 Independence Avenue, SW., Washington, DC, (202) 586–9127, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room. Please note: The Department's Freedom of Information Reading Room (formerly Room 1E–190 at the Forrestal Building) is no longer housing rulemaking materials.

FOR FURTHER INFORMATION CONTACT: Michael Raymond, Project Manager, Energy Conservation Standards for Central Air Conditioners and Heat Pumps, Docket No. EERM–440, EE–2J/ Forrestal Building, U.S. Department of Energy, Office of Building Technologies, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9611. E-mail: *michael.raymond@ee.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The National Appliance Energy Conservation Act of 1987 (NAECA) (Pub. L. 100–12) established energy efficiency standards for various consumer products, including residential central air conditioners, and directed DOE to undertake periodic rulemakings to decide whether to amend those standards. NAECA also amended the Energy Policy and Conservation Act (EPCA) to provide, in section 325(o)(1), that when DOE reviews efficiency standards, it ''may not prescribe any amended standard which increases the maximum allowable energy use * * * or decreases the minimum required energy efficiency'' of a covered product (42 U.S.C. 6295(o)(1)).

On January 22, 2001, DOE published a rule in the **Federal Register** amending the efficiency standard for central air conditioners established by NAECA by increasing the standard from 10 to 13 SEER (''seasonal energy efficiency ratio''), a 30% increase in energy efficiency. 66 FR 7170. The rule stated it would become effective on February 21, 2001, but manufacturers' products would not have to meet the 13 SEER standard until January 23, 2006. On January 24, 2001, the President's Chief of Staff issued a memorandum asking Executive Branch agencies to review ongoing rulemaking proceedings and to postpone the effective dates of any new regulations already published in the **Federal Register** but not yet effective, pending completion of such review. DOE accordingly issued a rule delaying the effective date of the central air conditioner rule published on January 22, 2001, in order to conduct that review. 66 FR 8745. DOE also received a petition from the Air-Conditioning and Refrigeration Institute (ARI), an association of air conditioner manufacturers, asking DOE to reconsider the 13 SEER standard. On May 23, 2002, DOE withdrew the 13 SEER rule and promulgated a new rule establishing a 12 SEER efficiency standard, a 20% increase in energy efficiency. 67 FR 36368.

The Natural Resources Defense Council (NRDC) and various public interest groups, joined by several state Attorneys General, filed suit in federal district court, and alternatively in the U.S. Court of Appeals for the Second Circuit, challenging DOE's withdrawal of the 13 SEER rule and promulgation of the 12 SEER standard. Among other things, they alleged that section 325(o)(1) of EPCA precluded DOE from adopting the 12 SEER rule.

On January 13, 2004, the U.S. Court of Appeals for the Second Circuit decided that once DOE published the 13 SEER rule for central air conditioners in the **Federal Register**, DOE was precluded from subsequently adopting a lower standard for those products. Thus, DOE's actions of withdrawing the 13 SEER standard and promulgating the 12 SEER standard violated section 325(o)(1). *Natural Resources Defense*